

Exhibit D

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

- - - - -
CHARLES DEMPSEY, individually, and
L.D., by her Father and Natural
Guardian, Charles Dempsey,

Plaintiffs,

-against-

THE CITY OF ROCHESTER, a Municipal
entity, et al.,

Defendants.

- - - - -
Video Conference
June 3, 2022
9:45 a.m.

EXAMINATION BEFORE TRIAL of P.O. ADAM
GORMAN, a Defendant in the above-entitled action,
taken by the Plaintiff, held at the above
time and place, pursuant to Court Order,
taken before Robyn Lehrmann, a Notary Public
in and for the State of New York.

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2 APPAREANCES :

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4 ROTH & ROTH, LLP

Attorneys for Plaintiffs

5 192 Lexington Avenue, Suite 802
New York, New York 10016

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7 BY: ELLIOT SHIELDS, ESQ.

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9 LINDA KINGSLEY, CORPORATION COUNSEL
10 Attorney for CITY OF ROCHESTER
11 30 Church Street
12 Rochester, New York 14614

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14 BY: PEACHIE JONES, ESQ.

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18

19 S T I P U L A T I O N S

20

21 IT IS HEREBY STIPULATED AND AGREED by
22 and among counsel for the respective parties
23 hereto, that the sealing and certification of
24 the within deposition shall be and the same
are hereby waived;

25

IT IS FURTHER STIPULATED AND AGREED

1 P.O. Adam Gorman

2 P.O. A D A M G O R M A N,

3 Having been first duly sworn by a Notary
4 Public of the State of New York, was
5 examined and testified as follows:

6 THE COURT REPORTER: Please
7 state your name for the record.

8 THE WITNESS: P.O. Adam
9 Gorman.

10 THE COURT REPORTER: Please
11 state your precinct address for
12 the record.

13 THE WITNESS: 185 Exchange
14 Boulevard, Rochester, New York
15 14614.

16 EXAMINATION BY

17 MR. SHIELDS:

18 Q Good morning, Officer Gorman.

19 A Good morning.

20 Q My name is Elliot Shields. I
21 represent a father and daughter whose dog was
22 shot and killed and I am going to ask you
23 some questions today.

24 If there is anything that I ask
25 you that you don't understand, please say so

1 P.O. Adam Gorman
2 for production of those
3 certificates of those, please,
4 Ms. Jones. And we'll follow up
5 in writing about that.

6 MS. JONES: Yes. I thought
7 he said he didn't know if there
8 were certificates.

9 MR. SHIELDS: I believe that
10 is what he said. That is why
11 the production called for to the
12 extent that there is anything
13 else.

14 Q I will go over some of your
15 evaluation again from bottom to top.

16 So this one is for the period
17 November 2017, to November 1st to the 30th.

18 So my first question is, this is
19 only a one-month period. Is that because you
20 were on probation still?

21 A This looks like a -- oh, okay.
22 Yes. This is a monthly probation, yes. When
23 you're on probation, they do monthly
24 evaluations.

25 Q So my question is about the

150

1 P.O. Adam Gorman

2 assault. Is that what you are saying?

3 A Based on the penal law, simple
4 marijuana, no. But a large amount of
5 Fentanyl, yes, it is more serious under the
6 penal law.

7 Q Did you suspect that the person
8 that you were facing on October 19th, 2018,
9 possessed Fentanyl or marijuana or something
10 else?

11 A I believe they possessed drugs.

12 Q Are all drugs the same?

13 A They are not.

14 Q There is not a nationwide
15 epidemic of marijuana overdosing right now?

16 A There is not.

17 Q But there is a nationwide,
18 specifically in Monroe County, of Fentanyl
19 overdoses?

20 A Yes, there is.

21 Q So, at the time, you know, if
22 you suspected this person had Fentanyl, that
23 might have been a more serious drug crime
24 than suspicion of marijuana, correct?

25 A That is correct.

1 P.O. Adam Gorman
2 run through the backyard and Kosciusko Street
3 as you anticipated that is what they would do
4 and as they came through the yard your plan
5 was to go and apprehend them?

6 A Correct.

7 Q So that is what we thought with
8 you running through this yard here and
9 apprehending this guy right here, right?

10 A Correct.

11 Q We hit pause, for the record, at
12 1707 and 13 seconds. There is activity 15
13 seconds into the video. And I will hit play
14 again. So I am just going to pause there.
15 So you said you did it yesterday too.

16 Did you guys do a similar thing
17 the day before?

18 A Similar, yes. We were familiar
19 with these individuals at the time selling on
20 that corner, correct. Yes.

21 Q What happened on the day before?

22 MS. JONES: Objection.

23 A From my recollection, on our
24 arrival they had ran south to Sobieski Street
25 through the same yards.

1 P.O. Adam Gorman

2 Q So that is how you guys devised
3 a plan on this day?

4 A Correct.

5 Q Do you know what the officers on
6 Kosciusko Street did?

7 A I do not.

8 Q On the previous day, had you
9 arrived on Kosciusko Street and witnessed
10 them running?

11 A Yes.

12 Q So on the previous day, what
13 happened? Did you drive your car and then
14 park and they ran or something else?

15 MS. JONES: Objection.

16 A I vaguely remember just pulling
17 up and upon police arrival it was immediate
18 flight.

19 Q Did you chase them through the
20 yards on the previous day as well?

21 MS. JONES: Objection.

22 A I don't recall.

23 Q So you might have, but you don't
24 recall?

25 A Correct.

1 P.O. Adam Gorman

2 A Yes.

3 Q Right before I paused, did you
4 hear yourself ask Officer Algarin to
5 backtrack?

6 A Yes.

7 Q So if it took you about 15
8 seconds to get from Sobieski Street to the
9 back of that fence, would it be fair to say
10 that it probably would take a similar amount
11 of time to get from the backyard to the front
12 of the house on Kosciusko Street?

13 MS. JONES: Objection.

14 A Similar time frame, yes.

15 Q So for at least a minute and 45
16 seconds, right, we know that the individual
17 that you apprehended was present in this
18 backyard, correct?

19 A Correct.

20 Q So for at least a minute and 45
21 seconds, there would have been any potential
22 contraband located in the backyard at the
23 house next door that was owned by my client,
24 correct?

25 A Correct.

180

1 P.O. Adam Gorman

2 noticed, the doghouse?

3 A Not particularly, no.

4 Q You didn't really think about
5 that before you came into this yard?

6 A No.

7 Q I will hit play. We're at two
8 minutes and three seconds into the video, or
9 170903. Let me ask you about that statement
10 that you just made.

11 Do you know who his cousins are?

12 MS. JONES: Objection.

13 A Not by name.

14 Q Were you familiar with that guy
15 that you had stopped?

16 A Yes. I've seen him in the area
17 before.

18 Q Did you know his name?

19 A Not offhand, no.

20 Q Do you know who his cousins
21 were?

22 MS. JONES: Objection.

23 A Again, all the personnel hanging
24 out in that area that day were all familiar
25 faces and known to stand there and sell

1 P.O. Adam Gorman

2 drugs.

3 Q Do you know what his cousins
4 look like?

5 A Not anymore.

6 Q Do you know why you said to him
7 whether it is you or your cousins?

8 A Just to talk.

9 Q Do you think his cousins were
10 other, I don't know, black men?

11 MS. JONES: Objection.

12 A Do I think or do I know?

13 Q Sure. Do you know? I mean, I
14 asked you if you knew who his cousins were.

15 A Yes. I know that people I seen
16 on that day were male blacks.

17 Q Do you know if the other guy
18 that was stopped was his cousin?

19 A The term I'd identify for
20 everyone here, the term "cousin" is very
21 commonly used as pal, friend, buddy,
22 acquaintance in the City of Rochester. It
23 does not have to be direct familial
24 relationship to be a cousin or aunt or uncle.

25 Q Did you ever review this

1 P.O. Adam Gorman

2 individual and other people ran from the
3 police when you pulled up.

4 Is that fair to say?

5 A Correct.

6 Q The fact that that happened two
7 days in a row, does that go under the
8 totality of the circumstances evaluation of
9 whether you had suspicion to stop him or
10 suspicion or probable cause to conduct a
11 search?

12 A That it does.

13 Q I will keep playing now.

14 In the moment when he was
15 screaming about his daughter, what were you
16 thinking?

17 A I didn't hear daughter. I heard
18 dog.

19 Q I am going to rewind a little
20 bit.

21 Did you hear him say "my
22 daughter"?

23 A I did.

24 Q Were you aware that his daughter
25 was watching the entire incident from right

1 P.O. Adam Gorman

2 inside the back door there?

3 A No, I was not.

4 Q Did you ever come to learn that
5 after the incident?

6 A I did.

7 Q I just want to rewind a little
8 bit and ask you a couple of other questions.
9 We are rewinding to 259 in the video, or
10 170958 seconds. He asked you to leave his
11 property, but did you ever do that? Did you
12 ever leave his property?

13 A No.

14 Q And why not?

15 A It was an active scene at this
16 point.

17 Q By active scene you mean because
18 Officer Algarin had shot Tesler two times?

19 A Correct.

20 I am assuming by Tesler you mean
21 the dog.

22 Q His pet dog, Tesler, yes.

23 So is that like a police
24 department policy, once a firearm is
25 discharged, that makes it like an active

1 P.O. Adam Gorman

2 MR. SHIELDS: Yes. Let's
3 keep going, so we can,
4 hopefully, finish this up after
5 they get back.

6 Q Officer Gorman, in this
7 situation, right, that we watched in the
8 body-worn camera video where Officer Algarin
9 jumped the fence in my client's yard, you
10 guys obviously didn't have a warrant, right?

11 A Correct.

12 Q The exception for the other
13 warrants would have had to apply what we
14 covered earlier, right?

15 A Correct.

16 Q Why didn't you just ask Officer
17 Algarin to walk to the front door to ask for
18 permission and knock on the door? Did you
19 ever think about that?

20 A At the time, it did not cross my
21 mind.

22 Q So earlier you had described
23 that on a prior day you had run a similar
24 operations where these same individuals had
25 run from you on Koskusco Street.

220

1 P.O. Adam Gorman

2 A No, I don't think so, not during
3 the foot chase.

4 Q How often during those foot
5 chances did you end up backtracking and going
6 through the route that you chase the person
7 to look for any discarded contraband?

8 A On my personal foot chases are
9 you asking?

10 Q Yes. I am just asking about
11 your experience, you know, what you have
12 done.

13 A I would say the majority of the
14 time.

15 Q Would it be fair to say that a
16 majority of the time some of those times at
17 least would require you to jump over a fence
18 similar to what happened in this instance?

19 A Yes.

20 Q In any of those other instances,
21 have you ever gone to the property owner's
22 front door and asked for consent to enter
23 their property?

24 A Prior to this date, not that
25 comes to mind.